

NO. [REDACTED]

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1943

R. J. THOMAS

Appellant

v

H. W. COLLINS, SHERIFF OF TRAVIS COUNTY, TEXAS,
Appellee

Appeal from the Supreme Court of Texas

APPELLEE'S MOTION FOR ORDER REQUIR- ING APPELLANT TO GIVE RECOGNIZANCE

GROVER SELLERS

Attorney General of Texas

FAGAN DICKSON

Assistant Attorney General

Attorneys for Appellee.

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*To the Honorable the Supreme Court of
the United States:*

Now comes Appellee and moves the Court to require Appellant to execute and file with this Court a recognizance with a personal surety residing in the State of Texas or corporate surety lawfully do-

ing business in Texas, payable to the State of Texas, in such sum as the Court may think proper, obligating himself to obey the orders of this Court and the judgments rendered by the courts below, in so far as they are not set aside or modified by the orders of this Court, and for special grounds shows:

1. The Supreme Court of Texas has required no recognizance pending this appeal.

The Supreme Court has permitted Appellant to Appeal to this Court upon a \$500.00 cost bond, which is conditioned only for the securing of costs on appeal. R. 341. Clerk's Transcript p. 8

2. The \$1,000 bail bond given to the State of Texas by Appellant on September 25, 1943, is wholly inadequate.

This \$1,000 bail bond is on file with the District Clerk of Travis County, Texas. Neither this bail bond nor a copy thereof was filed in the Supreme Court of Texas. A certified copy thereof is being herewith presented to the Clerk of this Court together with a motion that it be ordered filed. It is the only recognizance which appellant has given in this case. The appellee is of the opinion that appellant has no intention of serving his jail sentence in the event the contempt judgment is affirmed. Appellant has testified in this case that he is President of "the largest labor union in the world" (R. 284) which has approximately one million members and Vice-President of the C. I. O. which has approxi-

mately five million members. R. 23. A bond of a \$1,000 is wholly inadequate to secure compliance with the orders of the Court and an additional bond will not work an undue hardship on appellant.

3. The Appellant has left Texas and the Courts of Texas are powerless to enforce their orders in regard to his person.

Immediately after his release from jail on September 25, 1943, the Appellant left Texas and so far as Appellee or his counsel have been able to ascertain, he has not been back since. He is at present at large outside of Texas and this Appellee is without power to carry out the orders and decree of the Fifty-third District Court of Travis County, Texas, and the Supreme Court of Texas with reference to his incarceration, should the judgments of these courts be affirmed. The Governor of Texas does not grant or request extradition of any individual for any offense less than a felony. The appellant is a resident of Detroit, Michigan. R. 22.

4. The term of the Supreme Court of Texas during which judgment was rendered in this case expired on December 31, 1943.

Article V, Section 3a, of the Texas Constitution provides, "The Supreme Court may sit at any time during the year at the seat of Government for the transaction of business and each term thereof shall begin and end with each calendar year." The judgment in this case was rendered by the Supreme Court

of Texas on October 27, 1943 (R. 326) and the Motion for Rehearing was overruled on November 24, 1943. R. 335. The Supreme Court of Texas therefore no longer has jurisdiction in the case and cannot correct its mistake in not requiring Appellant to file a recognizance pending appeal.

WHEREFORE, Appellee prays that prior to any disposition of this appeal, this Honorable Court enter an order requiring Appellant to give a bond with personal surety residing in Texas or corporate surety lawfully doing business in Texas, payable to the State of Texas, in such sum as this Court may think proper, conditioned that he will obey the orders of this Court and unless modified or set aside, the orders of the Supreme Court of Texas and the Fifty-third District Court of Travis County, Texas, with reference to his incarceration.

Respectfully submitted,

GROVER SELLERS

Attorney General of Texas

FAGAN DICKSON

Assistant Attorney General

Attorneys for Appellee.

A copy of this Motion has been mailed to Mr. Ernest Goodman, 3220 Barlum Tower, Detroit 26, Michigan; Messrs. Lee Pressman and Eugene Cotton, 718 Jackson Place, N. W. Washington, D.C.; and

Messrs. Arthur J. Mandell and Herman Wright,
Fifth Floor, State National Bank Building, Houston,
Texas, Attorneys for R. J. Thomas, Appellant.

STATE OF TEXAS)
COUNTY OF TRAVIS)

BEFORE ME, a Notary Public in and for Travis
County, Texas, on this day personally appeared Fa-
gan Dickson, who being duly sworn, states on his
oath that he is an Assistant Attorney General of the
State of Texas and is authorized to make this af-
fidavit; that he is cognizant of the facts stated in the
foregoing motion and that they are true and correct.

SWORN TO AND SUBSCRIBED BEFORE ME,

this day of April, 1944.

Notary Public in and for
Travis County, Texas